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Supreme Court, U.S.
FILED
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CLERK

Case No. 96-682

IN THE UNITED STATES SUPREME ~~COURT~~
October term 1996

Lars W. Ehrlander,
Petitioner,

v.

Department of Transportation of Alaska, et al,
Respondents.

On Petition For Writ of Certiorari
to the Alaska Supreme Court

REPLY TO BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

LARS W. EHRLANDER, Pro Se
161 Palace Circle
Fairbanks, Alaska 99701
Telephone: (907) 451-8342

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REPLY TO RESPONDENT'S ARGUMENT THAT OUR PETITION LACKS MERITS

Even though the respondent waived its right to file a brief in opposition, and thereby submitted to our petition's being factually correct, the respondent did argue that our petition lacked merit. Because that the petition focuses on why the Court should review the case rather than focusing on the merits of the issues, and because of the respondent's argument that the matters raised in our petition lack merit, I will briefly review some of the main issues.

PRE - TRIAL ISSUES (The first, 1987, "formal trial")

1. The trial court had found an inverse taking based on business interference and the fact that our family had been singled out to pay a disproportionate burden of a public project. The Alaska Supreme Court erred in *sua sponte* reversing the trial court on factual grounds, on a motion for summary judgment, and without the benefit of knowing the facts. The Supreme Court's error was particularly egregious because we had preserved the issues in a bifurcation agreement for future litigation.

2. The Alaska Supreme Court erred in permitting the State DOT to interfere with our development project in order to save costs on future acquisition. Whether the State acted unreasonably or interfered with our development should have been a jury issue.

3 The Alaska Supreme Court erred when it permitted the State to enter into a stipulated agreement to bifurcate vested property rights to a

future trial, and instead of enforcing the agreement, permitted the State to breach the agreement *when it was too late to appeal the first trial.* Then, unbelievably, the Court waived our constitutional rights to just compensation for the State's taking these rights, *based on our not appealing the first trial.*

FIRST TRIAL ISSUES:

NOTE: The first trial was only intended to establish the Borough's proportionate liability, the impaired value. We did not appeal the first trial because the remaining issues were preserved in a court order for a second trial. However, the Alaska Supreme Court's having arbitrarily denied our right to the second bifurcated trial has now created a situation where the State took several vested property rights absent any compensation and in violation of a multitude of state and federal laws.

1. The State *took* 4 or 15 [1] subdivided city lots subject to all city services. The State *paid for* a single tract of land located outside the city limits.

2. The State *took* lots that had been improved with utilities, roads, and a bridge for access at a cost exceeding $350,000.00. The State *did not pay anything for* the fixed improvements. In fact, it deducted the costs of improving the area [these issues were preserved for the second trial],

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[1] The property consisted of 4 lots on the date of taking but would have consisted of 15 lots absent state interference.

even though the improvements were completed, approved and adopted by the city, and paid for in full by me, including paying the assessments in full for connecting our system to the city's. We were not paid for the improvements or for the enhanced value attributed to the improvements.

3. The State *took* prime building sites. The State *paid for* raw land that was unsuitable for construction owing to permafrost. Nor could a utility system be constructed on the property the State appraised.

4. The State *took* lots with valuable zoning permitting dense residential construction including apartment units. The State *paid for* inferior zoned land.

5. The State *took* centrally located property, in the city. The State *paid for* raw land located several miles outside the city.

6. The State *took* fully developed property. The State *deducted 20%* for an imaginary developer to do what I had already completed. The State also *deducted 15%* for profit to an imaginary land speculator among several other illegal deductions.

7. The State *took* retail property. The State *paid* wholesale value.

8. The State did not pay for the highest and best use of the land.

9. The State took the property in 1984, before it became impaired by the pending highway project, yet the State, sanctioned by the Alaska Supreme Court, paid a 1986 impaired value. The property was worth

$4.50 sf. in 1984 and only $1.79 in 1986. There was no other factor that caused this impairment than the pendency of the highway project. Instead of not including this impairment as required by both state and federal law, the State's payment reflected (included) the impairments.

10. The State and its officers misstated to the courts what property rights were actually taken.

POST TRIAL ISSUES:

1. The Bifurcation Agreement must be enforced.
2. The State's defaulting on the bifurcation agreement triggered the violation of several federal and state laws.
3. The State defaulted on its commitment to build an access road, making lots landlocked.
4. We did not receive just compensation for property rights that were taken. Furthermore, some issues were kept from the jury.
5. Our family had to pay a disproportionate share of a public project.
6. Our business was taken absent just composition or due process.
7. Our civil rights were violated.

Signed in Fairbanks, Alaska, this November 10, 1996.

By: Lars W. Ehrlander

Lars W. Ehrlander, pro se petitioner.